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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,594	06/15/2000	TERUO KUBOTA	1422-428P	9805

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EXAMINER

DOUYON, LORNA M

ART UNIT PAPER NUMBER

1751

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/581,594

Applicant(s)

KUBOTA ET AL.

Examiner

Lorna M. Douyon

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☒ Claim(s) 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. This action is responsive to the amendment dated October 29, 2003.
2. Claim 2 has been previously canceled. New claims 14-16 have been added in the amendment dated October 29, 2003. Claims 1, 3-16 are pending.
3. The submission of a new abstract is acknowledged.
4. The rejection of claim 5 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicants' amendment.
5. The rejection of claims 1, 3, 5-13 under 35 U.S.C. 102(e) as being anticipated by Kubota et al. (US Patent No. 6,376,453) is withdrawn in view of applicants' submission of a verified English translation of their foreign priority documents.
6. Claims 1, 3-9, 11-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita et al. (US Patent No. 5,468,516), hereinafter "Yamashita '516" for the reasons set forth in the office action in paper number 16.
7. The rejection of claim 4 under 35 U.S.C. 103(a) as being unpatentable over Kubota as applied to the above claims, and further in view of Yamashita '516 is withdrawn in view of applicants' submission of a verified English translation of their foreign priority documents.

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8. Claims 1, 3-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita et al. (US Patent No. 5,736,501), hereinafter "Yamashita '501" for the reasons set forth in the office action in paper number 16.

9. Claims 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: Yamashita '516 teaches that when the Froude number is less than 1, compression will not be promoted (see col. 7, lines 58-59), and that when a mixture of a detergent material comprising a nonionic surfactant is subjected to granulation in a condition according to the present invention, it is possible to form an adhesion layer on the inner wall of the agitation mixer by rotation of the agitation impeller, thereby high density granules can be produced without causing over power of the agitation mixer (over load of the agitating mixer), decrease in granulation efficiency (formation of coarse granules) and the like (see col. 6, last line to col. 7, lines 8). Likewise, Yamashita '501 teaches that when the Froude number is less than 1, the blending efficiency becomes poor, thereby making it likely to produce granulated products with a broad granular distribution (see col. 17, lines 37-40). Hence, the recited degree of particle growth would not have been achieved with a Froude number of 0.8, 0.83 or 0.85 as required in the present claims.

***Response To Applicants' Arguments***

10. Applicant's arguments filed October 29, 2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Yamashita '516, Applicants argue that in step (2) of claim 1 in Yamashita '516, the adhesion layer of the mixture is formed on the inner wall by granulating a mixture in an agitating mixer provided at the center position with a rotation shaft having an agitation impeller with a given clearance between the agitation impeller and an inner wall of the mixer. Applicants then argue that this step is a compression and rolling granulation so that it is different from the mixing conditions as defined in claim 1 of the present application such that the (a) component does not substantially undergo breakdown. Applicants also argue that a degree of particle growth of the thus obtained detergent particles would be rather large in the invention of Yamashita '516, and as such would not fall within the parameters of the instant invention wherein it is specified that the "particles have a degree of particle growth of 1.3 or less".

The Examiner respectfully disagrees with the above arguments because of the following reasons. The argument regarding the compression and rolling granulation of Yamashita '516 being different from the mixing conditions as defined in claim 1 of the present application is a conclusionary statement unsupported by factual evidence and is therefore insufficient to establish unexpected results. See *In re Linder*, 173 USPQ 356 (CCPA 1972). In col. 6, last line to col. 7, line 45, Yamashita '516 teaches that when a mixture of a detergent material comprising a nonionic surfactant is subjected to granulation in a condition according to the present invention, it is possible to form an adhesion layer on the inner wall of the agitation mixer by rotation of the

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agitation impeller, thereby high density granules can be produced without causing over power of the agitation mixer (over load of the agitating mixer), decrease in granulation efficiency **(formation of coarse granules)** and the like. Hence, the mixing conditions of Yamashita '516 read on the present claims. With respect to the degree of particle growth, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the degree of particle growth of the nonionic detergent granules of Yamashita '516 to be within those recited because the average particle sizes of the spray-dried particles ( 100 to 600 microns, see col. 8, lines 63-65) and the mean particle sizes of the nonionic detergent granules ( 250 to 800 microns, see col. 16, lines 12-24) **overlap** with each other, hence the degree of particle growth would also overlap and would read on the degree of particle growth as those recited.

With respect to the rejection based upon Yamashita '501, Applicants argue that in step (II) of the process recited in claim 1 of Yamashita '501, there is provided the step of "granulating said gelled product which acts as a binder" and based on this recited step, Applicants submit that a degree of particle growth would occur in the Yamashita '501 particles that would be greater than the recitation of "1.3 or less" in Applicants' pending independent claims 1, 3 and 4.

The Examiner respectfully disagrees with the above arguments because the average particles sizes of the spray dried particles (equivalent to base particles for supporting surfactant) which are 100 to 600 microns (see col. 11, lines 31-34) and the mean particle sizes of the obtained nonionic detergent granules of Yamashita '501, which are 250 to 800 microns (see col. 6, lines 34-36; col. 20, lines 17-23) **overlap** with each other, hence the degree of particle growth would also overlap and would read on the degree of particle growth as those recited.

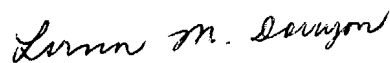
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11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272 1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272 1316. The fax phone number for the organization where this application or proceeding is assigned is (703) 872 9310.

  
Lorna M. Douyon  
Primary Examiner  
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